



Federal Communications Commission
Washington, D.C. 20554

June 14, 2021

Hearst Stations Inc.
c/o Coe w. Ramsey
Brooks, Pierce et al.
150 Fayetteville Street
Suite 1700
Raleigh, NC 27601
(via electronic mail)

KQCA, Stockton, CA
Facility ID No. 10242
LMS File No. 0000146558

Dear Licensee:

This letter is in reference to the above-captioned application for legal special temporary authority (Legal STA) filed by Hearst Stations Inc. (Hearst or Licensee), licensee of digital full power television station KQCA, Stockton, California, (KQCA or Station).¹ In its Legal STA, the Licensee requests authorization to allow KQCA's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on Hearst's commonly owned facility of KCRA-TV, Sacramento, California (KCRA), and on the facility of KTFK-DT, Stockton, California (KTFK), licensed to Unimas Sacramento LLC (Univision) (collectively multicast hosts).² This arrangement between the Licensee and the multicast hosts has been entered into in connection with the Station's transition of its facilities to the ATSC 3.0 transmission standard. Although the Licensee has agreed to indemnify the multicast hosts from all liabilities or claims resulting from the airing of its multicast stream over the multicast hosts' facilities,³ it has requested the instant authorizations to make clear that it will remain responsible from a statutory and regulatory perspective for the Station's multicast streams.⁴ Specifically, the Licensee requests that Station be treated as it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communications Act of

¹ Application of Hearst Stations, Inc., for Legal Special Temporary Authority as amended, LMS File No. 0000146558 (filed June 6, 2021) (Hearst Legal STA).

² KCRA is licensed to operate on RF Channel 35, and KTFK is licensed to operate on RF channel 26.

³ Hearst Legal STA at 3.

⁴ Because KQCA and KCRA are commonly owned by Hearst they need not enter into any contractual indemnification or a written simulcast agreement with regards to the multicast stream to be aired on KCRA. *See Media Bureau Announces That It Will Begin Accepting Next Generation Television (ATSC 3.0) License Applications in the Commission's Licensing and Management System on May 28, 2019*, GN Docket No. 16-142, 34 FCC Rcd 3684, 3685, n.5 (MB 2019) (*May 2019 PN*) (not requiring commonly owned stations enter into or maintain written simulcast agreements). Nonetheless, in an abundance of caution, Hearst requests that the instant legal authorization cover KQCA's multicast stream aired over the facilities of KCRA. We find this approach in the context of a station's non-primary multicast stream is consistent with our determination in the May 2019 PN regarding a primary simulcast hosting arrangement between commonly owned stations. However, our action herein is not intended to prejudice the outcome of any potential proceeding relating to any future licensing requirements regarding non-primary multicast streams. *See infra* note 26.

1934, as amended (Act) and the Commission's rules (Rules).⁵ For the reasons below, we grant the Licensee's request.

Background. On May 6, 2021, the Video Division granted the Station's application for modification of license to convert its existing broadcast facilities to ATSC 3.0 transmission.⁶ As required by section 73.3801 of the Rules,⁷ the Station's primary stream will be simulcast in an ATSC 1.0 format over the commonly owned facility of KCRA.⁸ In addition to its primary stream, the Station currently broadcasts two non-primary multicast streams: *Heroes & Icons*, and *Estrella TV*.⁹ In order to avoid the loss of the Station's over-the-air multicast programming to its current ATSC 1.0 viewers, the Licensee has entered into a written agreement with the multicast hosts to broadcast *Heroes & Icons* over KCRA, and *Estrella TV* over KTFK.¹⁰ As part of the same arrangement, KCRA, as well as KTFK's commonly owned sister station KUVS-DT, Modesto, California (KUVS), licensed to KUVS License Partnership, G.P., have been provided capacity as ATSC 3.0 guest stations on the Station's facilities.¹¹

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, the Station is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 simulcast signal.¹² Furthermore, due to capacity and other constraints the Station is not able to simulcast an ATSC 3.0 version of its multicast streams.¹³ Pursuant to an engineering study conducted by the Licensee, over 100% of the Station's current over-the-air ATSC 1.0 viewers will retain access to *Heroes & Icons* on KCRA, and nearly 70% of the Station's current over-the-air ATSC 1.0 viewers will retain access to

⁵ See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9970-73, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection files, indecency, sponsorship identification, etc.).

⁶ Application of Hearst Stations Inc. for Modification of License, LMS File No. 0000143769 (granted May 6, 2021) (KQCA License Modification).

⁷ 47 CFR § 73.3801(b).

⁸ See Hearst License Modification.

⁹ Hearst Legal STA at 1.

¹⁰ *Id.* at 2. Additionally, Hearst has requested authorization to air a future unspecified multicast stream over the facilities of KCRA. Pending further information, we decline to address that request at this time. Our action herein is not intended to prejudge the outcome of any potential proceedings relating to any future multicast streams that KQCA may seek to air.

¹¹ See Application of Hearst Stations Inc. for Modification of License, LMS File No. 0000143770 (filed Apr. 21, 2021); Application of KUVS License Partnership, G.P., LMS File No. 0000148149 (filed June 4, 2021).

¹² Hearst Legal STA at 2.

¹³ Specifically, Licensee states that to air an ATSC 3.0 simulcast of the Station's non-primary multicast streams, the Station would not be able to accommodate current ATSC 3.0 guest stations as arranged. According to the Licensee, doing so also would impact the Station's ability to offer enhanced ATSC 3.0 offerings, such as High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, the Licensee notes that additional engineering work and equipment would be required to accommodate simulcasting the Station's non-primary multicast streams in both an ATSC 1.0 and ATSC 3.0 format and thereby delay rollout of ATSC 3.0 in the Sacramento, California, Designated Market Area. *Id.* at 2.

Estrella TV on KTFK, if the Bureau were to grant the request described above.¹⁴ Absent the grant of the instant request, the Licensee states that the Station “may not be able to continue to provide the KQCA’s non-primary multicast streams over the air, which could result in a complete loss of service to all of the over-the-air viewers of these streams.”¹⁵ The Licensee’s engineering study also demonstrates that its non-primary multicast streams will continue to serve the Station’s designated market area and community of license.¹⁶

The Licensee goes on to state that it has provided the requisite notice to MVPDs regarding relocation of the Station’s primary ATSC 1.0 stream and its non-primary multicast streams.¹⁷ The Station will also air the requisite over-the-air announcements¹⁸ regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets to continue to receive KQCA’s ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channel for each of KQCA’s programming streams will remain unchanged and will be identified to viewers as being associated with KQCA.¹⁹ The Licensee plans to convert the Station’s facilities to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of KCRA (primary and non-primary streams), as well as KTFK (non-primary stream) on June 15, 2021.²⁰

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of the Licensee’s Legal STA. Under the Commission’s rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing non-primary multicast streams.²¹ Grant of the instant Legal STA will promote continued transmission of the Station’s non-primary multicast programming streams in an ATSC 1.0 format to viewers and make clear that the Station is responsible for the content of those signals from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to the Station’s non-primary multicast streams, we will treat those signals as multicast streams being originated by the Station even though they will be transmitted over the multicast hosts’ channels and facilities. The Station is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to both of its original non-primary multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children’s programming,²² equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission’s rules do not require that a multicast stream be

¹⁴ See Hearst Legal STA at 2, 6. We also note that over 100% of the Station’s current over-the-air ATSC 1.0 viewers will retain access to their primary programming over KCRA. Licensee expects an additional 910,262 viewers would gain access to the KQCA primary simulcast and nonprimary multicasts carried on KCRA. Hearst License Modification, Engineering Technical Statement at 1-2.

¹⁵ Hearst Legal STA at 2-3.

¹⁶ Hearst Legal STA at 2, 6.

¹⁷ *Id.* at 3. See 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁸ Hearst Legal STA at 3. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

¹⁹ Hearst Legal STA at 3.

²⁰ *Id.* at 1.

²¹ *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

²² Licensee notes in its Legal STA that it “does not currently, and does not intend to, rely on its non-primary multicast streams for compliance with the Commission’s children’s programming requirements.” Hearst Legal STA at 3.

simulcasted,²³ there is no requirement that the Station air ATSC 3.0 versions of the ATSC 1.0 non-primary multicast streams. For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that the Licensee has set forth.²⁴

Accordingly, the application of Hearst Stations, Inc., licensee of KQCA, Stockton, California, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on December 14, 2021. For purposes of the Act and the Commission’s rules, we will consider the multicast program streams of *Heroes & Icons*, and *Estrella TV*, to be originated by the Station, even though the streams are being aired over the multicast hosts’ facilities and channels. Further, we will not apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as the Station’s non-primary multicast streams are being aired on the facilities of the multicast hosts pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., KQCA is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host). Any change in the non-primary multicast streams being aired over the multicast hosts by the Station or any relocating either of non-primary multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. By this grant, the Licensee agrees to coordinate with MVPDs as necessary. Because multicast signals are not entitled to mandatory carriage rights,²⁵ an impact on an MVPD’s ability to carry KQCA’s non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between KQCA and the affected MVPDs. According to the Licensee, it has coordinated with all impacted MVPDs to ensure that they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods.²⁶ While renewal of the instant authorization may be requested,

²³ See *supra* note 20.

²⁴ *Supra* note 12.

²⁵ See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee’s multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term “primary video” to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

²⁶ Hearst Legal STA at 3.

whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast non-primary streams pursuant to an ATSC 3.0 simulcasting arrangement.²⁷

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):

Matthew S. Delnero, Esq.
(Counsel of KTFK)

²⁷ We note that the Commission has before it a Petition for Declaratory Ruling and Rulemaking requesting that the Commission “(1) clarify that its existing rules permit a station transmitting in ATSC 3.0 to partner with one or more other stations that would host the first station’s simulcasted ATSC 1.0 multicast streams to preserve existing service in the market; and (2) establish rules permitting a station transmitting in ATSC 3.0 to partner with one or more other stations that would host the first station’s ATSC 1.0 multicast streams, regardless of whether those ATSC 1.0 multicast streams are simulcast in ATSC 3.0, and also permit a station transmitting in ATSC 1.0 to partner with one or more other stations to host content transmitted in ATSC 3.0.” *See* Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition); *Media Bureau Seeks Comment on Petition for Declaratory Ruling and Petition for Rulemaking of the National Association of Broadcasters Seeking to Clarify Treatment of Multicast Streams Under the Next Gen TV Local Simulcasting Rules*, GN Docket No. 16-142, Public Notice, 35 FCC Rcd 13130 (MB 2020). Our action herein is not intended to prejudge the outcome of any potential proceeding undertaken in response to the Petition.